

Members

Rep. Sheila Klinker, Chairperson
Rep. Suzanne Crouch
Sen. Marvin Riegsecker
Sen. Connie Sipes
Sally Lowery
Suda Hopkins
Betty Williams
Christopher Durcholz
Susan Ferverda
Bettye Dunham
Scott Sefton
Sharon Kooi



COMMISSION ON MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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MEETING MINUTES¹

Meeting Date: September 9, 2008
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., 431
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. Sheila Klinker, Chairperson; Suda Hopkins; Betty Williams; Susan Ferverda; Bettye Dunham; Scott Sefton; Sharon Kooi.

Members Absent: Rep. Suzanne Crouch; Sen. Marvin Riegsecker; Sen. Connie Sipes; Sally Lowery; Christopher Durcholz.

I. Opening and Introductions, Representative Sheila Klinker, Chairperson:

Chairperson Klinker called the meeting to order at 1:15 P.M. and spoke briefly about her experience at Self Advocates Becoming Aware Conference. She asked commission member Betty Williams to comment on the meeting and her experience as well. Ms. Williams stated that the inclusion of "Mental Retardation" in the Commission name is offensive and that Indiana is one of the last states to still include this in the Commission's name. Ms. Williams moved that the Commission remove "Mental Retardation" from the Commission's name, changing the name to the "Commission on Developmental Disabilities". Mr. Scott Sefton seconded this motion, to which Chairperson Klinker accepted the motion and called for a vote on the recommendation. The Commission members voted aloud, and the motion was accepted by the Commission.

After the adoption of the motion, Chairperson Klinker asked Commission members to introduce themselves.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

II. Presentation by Mr. Peter Bisbecos, Director, Division of Disability and Rehabilitative Services (DDRS), Family and Social Services Administration (FSSA), on the State of DDRS:

Mr. Bisbecos provided the Commission with information on the status of the OASIS Program negotiations. He stated that stakeholders have worked hard and those involved in the negotiations accept the current terms. Mr. Bisbecos also stated that it was FSSA's intent to provide a comprehensive informative bulletin to all consumers of the changes to the OASIS Program. The bulletin will explain the rate changes and options the consumer has.

The overall intent of the negotiations was to have a uniform reimbursement rate for program services. Additionally, Mr. Bisbecos informed the Commission that within 6 to 9 months after the date of implementation of the new OASIS Program reimbursement rates, stakeholders will revisit the rates to perform any necessary troubleshooting.

Another result of the negotiation process was to separate travel reimbursement from the program's reimbursement rates. This would have the effect of allowing more money to go towards services for consumers.

Mr. Bisbecos also informed the Commission that the implementation of the new OASIS rates will be performed on a rolling basis. The new reimbursement rates will be applied to consumers on their anniversary date of receiving program services. He stated that the implementation strategy will have resulted in different individuals receiving the old and new OASIS reimbursement rates during the first year of implementation.

Mr. Bisbecos told the Commission that the reimbursement change was budget neutral. Some individuals may see their funding increase whereas others will see it decrease. However, overall, this should yield no additional budget impact.

Additionally, Mr. Bisbecos told the Commission that DDRS is working to remove some of the approximately 18,000 individuals who are still on waiting lists for OASIS services. He stated DDRS's goal is to remove approximately 2,000 individuals from the wait list during this year.

One of the major changes to the reimbursement rate was to move from a staff hour rate to a consumer hour rate. This change was made in part to avoid the potential problem of decreasing staff at developmental disability centers. Mr. Bisbecos informed the Commission that if centers receive reimbursement based on their staff numbers, with a staff decrease, centers will receive less reimbursement from the OASIS Program. Allowing for a consumer service hour reimbursement will allow consumers the freedom to select services they desire.

Mr. Bisbecos' suggestions for legislation during the upcoming General Assembly included changing criminal law to address individuals with developmental disabilities. Current law applies to individuals with mental health conditions, but there is no diversion or guidance provided by Indiana Code for individuals with developmental disabilities. Applying mental health laws to individuals with developmental disabilities presents a problem because mental health law assumes that individuals can be rehabilitated. This, however, is often not the case with those that are developmentally disabled.

Additionally, Mr. Bisbecos suggested that sexual assaults committed against the developmentally disabled are hard to identify and prosecute. He suggested that legislation be drafted that would provide a protocol on how to identify victims of sexual assault and how to try these cases.

In response to a question from Chairperson Klinker about the decreasing number of service providers and what incentives are currently in place to attract more, Mr. Bisbecos stated that FSSA is funding training and recruiting programs for service providers to both increase the number of providers and combat staff turnover. He also emphasized that staff turnover can be detrimental to service costs because as consumers become more comfortable with staff (as evidenced by time spent together), the consumer gradually requires less services. Mr. Bisbecos also stated that working as a service provider is not normally an end career goal but is rather a segue into a different one. The ideal time to maintain service provider staff was estimated to be two years or longer to have a positive affect on the consumer.

Chairperson Klinker inquired about sexual assault cases against the developmentally disabled. She suggested that the Criminal Justice Institute would be a tremendous resource for information about how to try these cases. Mr. Bisbecos responded to the questions from Chairperson Klinker by stating that stopping sexual assaults requires prosecutors to convince a jury that the assault happened. Often times there is no physical evidence, which turns into a speculative case. One must be able to verify and set standards on how to prosecute these cases. Additionally, he stated that psychologists, psychiatrists, and other trained professionals need to be available to help prove that an assault against a person with developmental disabilities took place.

Mr. Scott Sefton inquired about the OASIS reimbursement rate implementation date. Mr. Bisbecos confirmed that the target date was still January of 2009 and that rates would be revisited within 6 to 9 months after the implementation date. Mr. Bisbecos also stated that at the time he was unwilling to state the actual reimbursement rate.

Ms. Bettye Dunham asked if the new reimbursement rates will apply under the service definitions, to which Mr. Bisbecos responded that they would. In response to questions from Ms. Dunham about the reimbursement rates, Mr. Bisbecos informed the Commission that the budget allocations will be neutral, the reimbursement rates will apply to new service definitions, and the program needed an objective system that will be consistently applied to determine reimbursement rates for services across the state. He also reiterated his commitment to making sure that the program has the right reimbursement rates so that consumers and providers are both pleased.

Ms. Sharon Kooi asked about the processing of individuals on the waiting list. She wanted to ensure that there are more coming off the waiting list than are added each year. Mr. Bisbecos assured the Commission there are more people coming off the waiting list than there are going on.

In response to a question from Chairperson Klinker about the criteria for taking someone off the waiting list, Mr. Bisbecos informed the Commission that currently, services are provided on a first-come, first-served basis. FSSA and DDRS are currently collecting information to study who receives services and who does not.

Mr. Richard Metsger from the Indiana Professional Management Group (IPMG) spoke on behalf of Mr. Bisbecos regarding Medicaid waivers and person-centered planning (PCP). Mr. Metsger stressed that the purpose of PCP is to be consumer-driven by meeting the needs of the consumer. Since its start in September of 2006, IPMG has collected data to ensure productivity and adequate service provision to service consumers. Annual assessment groups conduct interviews with caregivers closest to the consumers to ensure satisfaction with their services. In response to a question from Chairperson Klinker about the annual assessment groups, Mr. Metsger informed the Commission that this process is undergoing beta testing, but begins 180 days before the anniversary date of service care for a consumer.

III. Presentation by Mr. John Dickerson, Executive Director, Arc of Indiana, and Kim Dodson, Assistant Executive Director, Arc of Indiana:

Mr. John Dickerson presented information on the status of the OASIS Program negotiations. He confirmed that the main change of the reimbursement rates was from a staff hour to a consumer hour. He emphasized that one of the issues that will be reviewed at the assessment meeting will be if the reimbursement rate is equitable across the state. Mr. Dickerson informed the Commission that there was some outcry from urban and rural consumers and providers as to who should receive a higher reimbursement amount. In response to a question from Chairperson Klinker, Mr. Dickerson informed the Commission that for the time being, the reimbursement rate was established as a single rate and can be reviewed at the first evaluation meeting.

When asked by Chairperson Klinker about funding cuts from federal revenue, Mr. Dickerson responded that federal funding will largely depend on the outcome of the election. He stated that the Arc of Indiana has worked to draw down as much federal reimbursement for the Medicaid program as possible, but this often requires policy changes at the state level because of the federal deficit reduction efforts.

For the current budget cycle, Mr. Dickerson indicated that he would like to ask for additional funding in order to help reduce the wait list for services as well as improve the currently offered services.

Ms. Kim Dodson provided suggestions for legislation for the 2009 General Assembly. She informed the Commission that the public policy group from the Arc of Indiana was still deliberating on a list of top legislative priorities. She suggested the removal of the term "Mental Retardation" from the Commission's name. Secondly, the Arc would like to request more money in order to work towards removing the 18,000 individuals from the waiting list for services. Currently, the Arc of Indiana is working with FSSA and DDRS on the specific amount for the budget request. Additionally, the Arc of Indiana would like to see additional funds for the Guardianship program for the developmentally disabled. Ms. Dodson also explained to the Commission that centers providing services to the developmentally disabled may lose local funding as a result of last year's HB 1001. Chairperson Klinker enquired if funding for these centers would be the state's responsibility, much like that of schools and local county welfare offices. Ms. Dodson replied that the Arc of Indiana is currently in the process of communicating with counties to determine their funding sources to determine the overall effect.

Mr. Sefton asked about the non-nutritive beverage fees in other states and its potential uses. Ms. Dodson replied that some states charge a tax on the syrup used to make non-nutritive beverages and that revenue from this tax has been used to expand dental insurance and human services programs in other states.

IV. Presentation by Mr. Steve Cook, Board Chair, INARF:

Mr. Cook presented on two main issues related to the OASIS Program including the allocation of money to consumers and uniform rates of reimbursement. He stated that District 4, comprising the west-central part of Indiana, is currently implementing a pilot program that uses uniform rates for day services and residential rates.

Mr. Cook expressed that he felt positive about the state's commitment to collect the data mentioned from the OASIS Program day services reimbursement rate to determine if the changes are budget neutral.

Mr. Cook stated that there was still work to be done with the residential reimbursement rate. Currently, District 4 is using the direct care service hour reimbursement rate, but they are currently working on that rate in order to balance the service needs with the service budget. Mr. Cook informed the Commission that the debate on that reimbursement rate would begin on Sept. 12 of this year along with the respite care rate.

Mr. Sefton asked about the costs of transportation and what was considered in the new transportation reimbursement rate. Mr. Cook stated that a new travel reimbursement rate will be used once a consumer hit their anniversary date. In response to an additional question from Mr. Sefton, Mr. Cook informed the Commission there will be two different reimbursement rates provided which would present administrative challenges.

Mr. Cook informed the Commission that Medicaid waivers for the Developmentally Disabled will expire in 2009 and that he would like to start the process of meeting with stakeholders (specifically with Mr. Bisbecos of DRS) to design new waivers for the Developmentally Disabled.

Mr. Cook's suggestions for legislation included quality enhancement for services through direct budgetary support and working to reduce the waiting list for services.

V. Presentation by Mr. Jeff Darling, President, Wabash Center:

Mr. Darling briefed the Commission on how much money the Wabash Center stood to lose before the OASIS Program reimbursement rate negotiations. This amount was 40% of the Center's revenue. He emphasized how much he appreciated the state's dedication to working on the problem to benefit all involved. He reiterated sentiments that had already been expressed about the decision to set aside 7% of the funding available for reimbursement to fund transportation along with the continued service definition negotiations for the program.

In response to a question from Chairperson Klinker about transportation of people that participate in shelter workshops, Mr. Darling informed the Commission that the changes made during the negotiations will only affect people using the Medicaid waiver. He further provided that shelters are not considered reimbursable services; however, the Wabash Center still transports consumers to their shelters, often at the expense to the Center.

VI. Other Business:

Mr. Sefton asked that before the third meeting of the Commission that proposed legislation be provided to the Commission members at least one week before the meeting date for review

The next meeting date was selected by Chairperson Klinker for October 14, 2008.

VII. Adjournment:

The meeting was adjourned at 3:00 P.M.